



OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

June 21, 2001

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2001-2655

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148631.

The Department of Public Safety ("DPS") received a request for "any written statements obtained from witnesses or persons involved in [a particular] accident." You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You also claim that some of the requested documents are records of the judiciary and are therefore not subject to the Public Information Act (the "Act"). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we address your argument that portions of the requested information are judicial records that are exempt from the Act. The Act applies to "information that is collected, assembled, or maintained . . . by a governmental body." Gov't Code § 552.002(a)(1). Section 552.003(1)(B) provides that "[g]overnmental body . . . does not include the judiciary." This office has concluded that grand juries are part of judiciary for purposes of the Act. *See* Open Records Decision No. 398 at 2 (1983). This office has also stated:

Information obtained pursuant to a grand jury subpoena issued in connection with [the grand jury's] investigation is within the grand jury's constructive possession. On the other hand, the fact that information collected or prepared by [a] district attorney is submitted to [a] grand jury, when taken alone, does not mean that the information is in the grand jury's constructive possession when the same information is also held by the district attorney. Information not produced as a result of the grand jury's investigation may be protected from disclosure under one of [the Act's] exceptions, but it is not excluded from the reach of [the Act] by the judiciary exclusion.

Open Records Decision No. 513 at 3 (1988). Here, you claim that “the information that was obtained pursuant to a grand jury subpoena is excepted from required public release since the information is within the actual or constructive possession of the grand jury.” Based on this representation and our review of the submitted documents, we agree that these records are in the constructive possession of a grand jury and are therefore exempt from disclosure under the Act.

Next, you claim that portions of the requested information are excepted from disclosure under section 552.130 of the Act. That section provides, in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Thus, if the highlighted driver’s license numbers and license plate numbers were issued by the State of Texas, they must be withheld under section 552.130.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

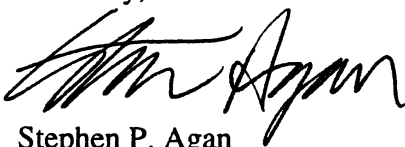
provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Stephen P. Agan
Assistant Attorney General
Open Records Division

SPA/seg

Ref: ID# 148631

Enc. Submitted documents

c: Mr. Terry Helgren
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(w/o enclosures)